

No. 3:19-CV-00291

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

In re:

ACIS CAPITAL MANAGEMENT, L.P., et al.,

Debtors.

* * * * *

HIGHLAND CAPITAL MANAGEMENT, L.P., et al.,
Appellants,

vs.

ROBIN PHELAN, CHAPTER 11 TRUSTEE, et al.,
Appellees.

**STATEMENT OF ISSUES BY APPELLANTS
HIGHLAND CAPITAL MANAGEMENT, L.P., and NEUTRA LTD.**

Appellants Highland Capital Management, L.P., and Neutra Ltd. state these issues for the appeal of the *Opinion* affirming the bankruptcy court's orders and rulings of January 31, 2019 [Doc. 75] and the *Judgment* affirming the bankruptcy court's orders and rulings of January 31, 2019 [Doc. 76]:

1. Did the bankruptcy court err in denying the debtors' motion to dismiss the involuntary petitions for lack of subject matter jurisdiction (or, alternatively, in denying their motion to compel arbitration)?

2. Did the bankruptcy court err in addressing the confirmation of the proposed plan of reorganization while an appeal of the Orders for Relief was pending (an appeal that would resolve issues material to confirmation)?

3. Did the bankruptcy court err in ruling that the Chapter 11 Trustee satisfied the requirements of 11 U.S.C. §§ 1129(a)(3), 1129(a)(5), and 1129(b) for confirming the plan of reorganization?

4. Did the bankruptcy court abuse its discretion in approving the temporary plan injunction as part of the plan? This issue includes the following:

- Did the court have jurisdiction to confirm a plan of reorganization premised on an “asset freeze” injunction designed to protect the debtor’s interest in avoiding a purported fraudulent transfer of a contract to non-creditors when the court has no authority to render a final judgment on the fraudulent transfer claim?
- Did the court err in confirming a plan premised on an injunction that—instead of maintaining the status quo—grants the debtor control over property that does not belong to the estate, eliminates the debtor’s fiduciary duties, and grants the debtor rights beyond the contract rights that could be recovered on the fraudulent-transfer claim in the underlying adversary proceeding?
- Did the Chapter 11 Trustee, the party seeking the injunction, prove all four factors needed to establish the right to an injunction?

5. Are the bankruptcy court’s findings of fact issued in support of the above rulings clearly erroneous?

Respectfully submitted,

/s/ Holland N. O'Neil

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CERTIFICATE OF SERVICE

I certify that on **August 7, 2019**, a copy of this document was served through the court's ECF system on counsel below:

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